THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 09-11-2005

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WRIT PETITION No.23919 OF 2005

Between:

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G.Vallemma . . .Petitioner

and

The MRO, Thottambedu, Chittoor. . . .Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.23919 OF 2005

O R D E R:

The petitioner claims that she constructed a house in Survey No.42 of Idulagunta of Chilakavari Kandriga Village, Thottambedu Mandal, Chittoor District. According to her, about 200 others have also constructed houses and she complains that the first respondent is threatening to evict her alone at the

instance of the neighbouring encroachers. She seeks appropriate directions in this regard.

Sri C.Ramachandra Raju, learned counsel for the petitioner, submits that Survey No.42 is a Government poramboke and being a land less poor, the petitioner had encroached over an extent of three cents and constructed a house. He submits that even if the construction of the house by the petitioner is found to be illegal, the first respondent is under obligation to follow the procedure prescribed under the A.P. Land Encroachment Act (for short "the Act") and that the respondents cannot forcibly evict the petitioner that too, without taking any action against the other encroachers.

Learned Government Pleader for Revenue, on the other hand, submits that Survey No.42 is an irrigation tank and the question of permitting any construction over such a land does not arise. It is also stated that the encroachments have since been cleared with a view to maintain and restore the water body.

The petitioner has categorically stated that she has constructed a hut in part of land in Survey No.42. The copy of the village map filed by the petitioner discloses that survey No.42 is a water covered area. It is not known as to whether the petitioner has constructed her hut over a
water covered area or on a plain land belonging to the Government. If the petitioner has constructed house on land, which is not part of an irrigation tank, she can be evicted only after following the procedure prescribed under the Act. On the other hand, if the encroachment is over a land, which is part of tank bed, no such notice is necessary. The reason is that having regard to the importance of maintenance of water bodies; the Supreme Court
came down heavily on the Government authorities as regards their indifference in the matter of maintaining them. The water bodies are required to be preserved, maintained and restored at any cost, and no individual, including a pattedar can have any right to make any construction in such areas.

For the foregoing reasons, the writ petition is disposed of directing that,

a. in case the petitioner has occupied any area other than a tank bed, the respondents shall follow the procedure prescribed under the Act, and

b. if the encroachment of the petitioner is over any water spread area of any irrigation tank or water body, the first respondent shall take immediate steps to clear all encroachments not only of the petitioner, but also of rest of others, if any.

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(L.NARASIMHA REDDY, J)

9th NOVEMBER, 2005.

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